

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHAEL WILLIAMSON, ET AL.

Plaintiffs,

v.

RECOVERY LIMITED PARTNERSHIP, ET
AL.

Defendants.

Case No. 06 CV 5724

DECLARATION OF
GILMAN D. KIRK, JR.

I, Gilman D. Kirk, Jr., make the following Declaration pursuant to 28 U.S.C. §1746:

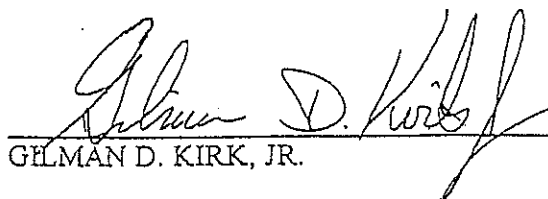
1. I make this supplemental declaration in response to the supplemental filing of Mr. Williamson and the other Plaintiffs.
2. As noted in my prior affidavit the Plaintiffs and their counsel did not give notice to me and the other Defendants of the attachments. For example, the first attachment occurred on or about August 16th and resulted in the company's check being dishonored. See attached Exhibit 8. We did not learn of the dishonor until approximately three weeks later because the Plaintiffs had given us no notice.
3. Attached as Exhibit 7 is Mr. Howell's letter to Holland & Knight in connection with the California attachments, making it clear that the documents showing the absence of a basis for the attachments had been readily available to Holland & Knight. Holland & Knight declined to review the documents and instead refused to release the attachments until three days of evidence and hearing.
4. The use of sonar in land archaeology is well-known in the field. Attached are numerous examples of instances where sonar has been used in land archaeology. See attached Exhibits 1-6.

5. The importance of Battelle Memorial Institute, based in Columbus, Ohio, and the development of sonar, are also well known.

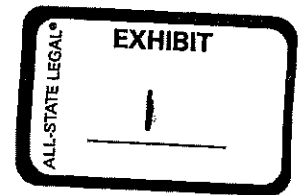
6. The concept of finding deep ocean cultural deposits (mostly pre-20th century shipwrecks) by using highly sophisticated sonar originally created to locate manganese nodules was developed in Columbus, Ohio through many years of research by the Defendants and others. Columbus is home to Battelle Memorial Institute Research Labs (dedicated to Developing Technology for the Benefit of Mankind and, at the time of the execution of the Non-Disclosure Agreements, the largest not-for-profit contract research organization in the country) and the Ohio State University (one of the largest on-campus universities in the country). Both of these institutions are notable for their broad-ranging research into varied fields. These two institutions, alone, are particularly notable in the area of extreme environments including the deep ocean, outer space, and the polar caps. This high density of research facilities (they are within walking distance of each other) centered in the Midwest is particularly important because of the need for access to broad ranging multidisciplinary research projects, research data and research facilities. From the beginning, it was determined that multidisciplinary approach would be necessary when creating new paradigms for exploring new frontiers like outer space or the deep ocean. Columbus is only 600 miles (or a day's drive) from over 60% of the population of the U.S., including many of the largest cities and other centers of research and technology.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 1st day of November, 2006, in Columbus, Ohio.


GELMAN D. KIRK, JR.

The Amarna Royal Tombs Project - 2000 Season



The Amarna Royal Tombs Project

Aims

The area chosen for investigation by The Amarna Royal Tombs Project during its first, second and third seasons (November-December 1998, October-December 1999 and September-December 2000) lies close to the Amarna period tombs KV 55 and KV 62 (Tutankhamun), bounded by the 'Gold Tomb' (KV 56) on the west and the tomb of Ramesses VI (KV 9) on the east.

Records suggested that previous work in this area had been sporadic and less than thorough, and that excavation might offer:

(i) the prospect of a continuation of the poorly documented workmen's 'settlement' noted by Howard Carter overlying the tomb of Tutankhamun at the entrance to the tomb of Ramesses VI;

(ii) the possibility of further, undiscovered burials at bedrock level. (Two unexplained 'anomalies' were revealed in the area by a sonar survey undertaken in 1976, while the irregular ground plan of tomb KV 56 and peculiar change in direction of the neighbouring tomb of Tutankhamun, KV 62, likewise hints at the possible existence of an undocumented subterranean feature in the vicinity.)

Results

Excavations at the site resumed on 23 September 2000 and continued until 3 December 2000, concurrent with the ongoing study of the previous seasons' finds.

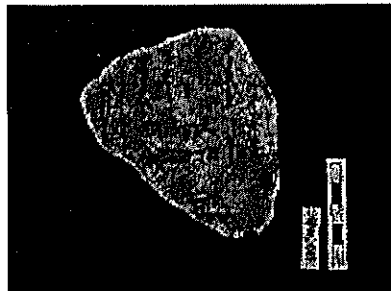
1. Excavations between the tombs of Amenmesse and Ramesses III



The plan agreed with the Supreme Council of Antiquities was to shift the existing path a little way to the south, to run between the tombs of Amenmesse (KV 10) and Ramesses III (KV 11); the intention is for a temporary rerouting, in due course, to allow access to the crucial area beneath the present tourist route. Before any new path was installed, however, it was decided to investigate thoroughly its intended route, with a view to further clarifying the section of the wadi at this point and the extent of the Ramessid workmen's settlement already encountered on the north side of the

existing path.

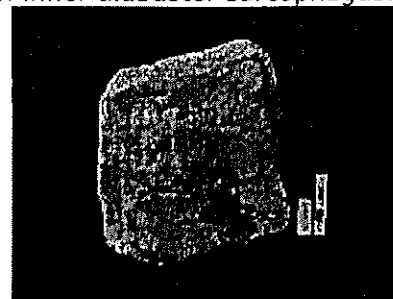
During the course of the work, in the uppermost levels, a miscellaneous collection of broken funerary material was discovered to the east of the entrance to the tomb of Ramesses III. To judge from accompanying newspaper fragments, this material had been deposited at the end of the nineteenth century, when it seems the tomb had been cleared out to facilitate tourist access.



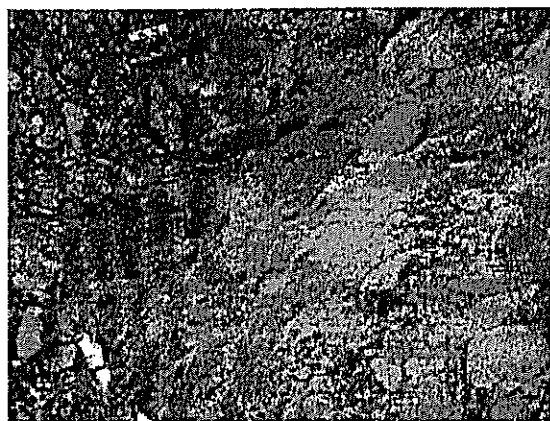
Among the finds were fragments of shabti figures of Ramesses III and perhaps other kings in alabaster, faience and wood and pieces of Ramesses III's previously unknown inner alabaster sarcophagus.

Fragments of this same king's outer red-granite sarcophagus (the lid of which is now in the Fitzwilliam, the box in the Louvre, both removed by Giovanni Battista Belzoni in 1817) were also found, as well as two

fragments from the basalt sarcophagus of Ramesses VI and fragment(s) from the previously unknown alabaster canopic chest of Ramesses IV.



In addition, the area yielded an interesting and highly important series of New Kingdom glass and faience vessel fragments. The material recovered from outside the entrance to KV 11 promises, with further study, to add considerably to our knowledge of the burial equipment of Ramesses III and his successors.



Towards the centre of the site, not far beneath the surface in a depression in the hillside, a deposit of 14 complete and fragmentary shabti figures of Sethos I was discovered. [pic4] It appears likely that the cache was deposited not in antiquity, but early in the nineteenth century, perhaps by Belzoni-a grouping of objects removed from Sethos I's newly discovered tomb (KV 17) to the explorer's likely camp.

By the end of the 2000 season, the area between KV 10 and KV 11 had been completely excavated, with the exception of a 2-metre area around the entrance to the tomb of Amenmesse. This will be examined by Otto Schaden of the University of Memphis expedition, in the hope of discovering the foundation deposits of KV 10.

2. Continued excavation of the area between the 'Gold Tomb' and the tomb of Ramesses VI

After final documentation at the start of the 2000 season, the central area excavated in 1998 and 1999 was refilled, and attention concentrated on the western and eastern ends of the site.

To the west, further 20th Dynasty huts were revealed,



including a well-preserved kitchen-complex with pot-stand and hearth in situ. This is still in course of excavation.

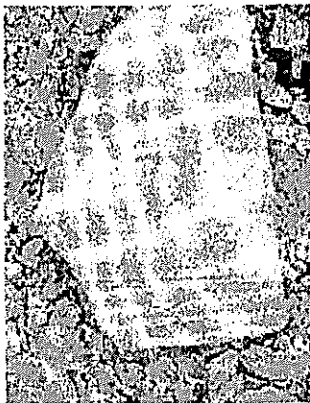


Work at the eastern end of the site, towards the tomb of Ramesses VI (KV 9), uncovered further workmen's structures, including the last of the Ramessid structures recorded by Howard Carter on his survey of the area.

This complex was (re-)excavated, and fully planned and recorded by means of photogrammetry to expand upon and complete Carter's documentation.



Finds, both at the western and eastern ends of this site, were fewer than in previous seasons, but included two fine ostraca: one Ramessid piece showing a man walking with a staff and with a bundle tied to a stick carried over his shoulder

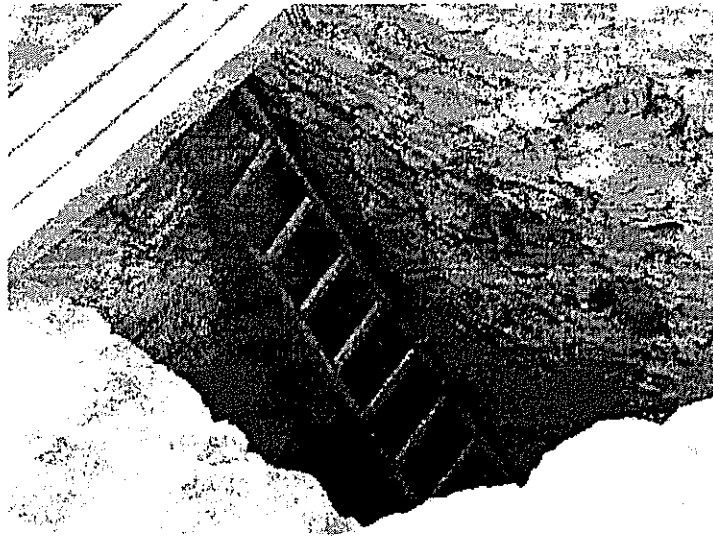


and a large charcoal sketch of an official, arms raised in adoration, in characteristic Amarna style. [pic8] The dating of this find was confirmed by fragments from an extremely large storage jar of late 18th Dynasty blue-painted ware in this same stratum. The ostrakon and pottery represent the first objects of Amarna period date to have been encountered in the Valley since the tomb of Tutankhamun, and bode well for the future.

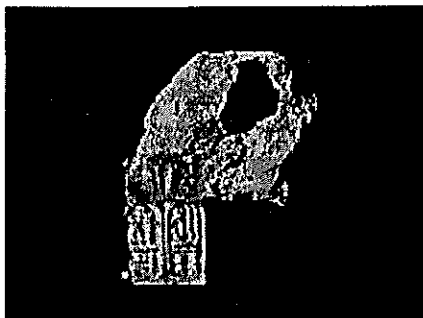
3. Re-excavation of 'The Gold Tomb'

The undecorated, single-chambered shaft tomb KV 56 was first discovered and cleared by Theodore Davis in 1908. The ARTP's aim in reclearing this tomb is (i) to establish an accurate plan,

and (ii) to clarify when and for/by whom the tomb had been intended and/or employed.



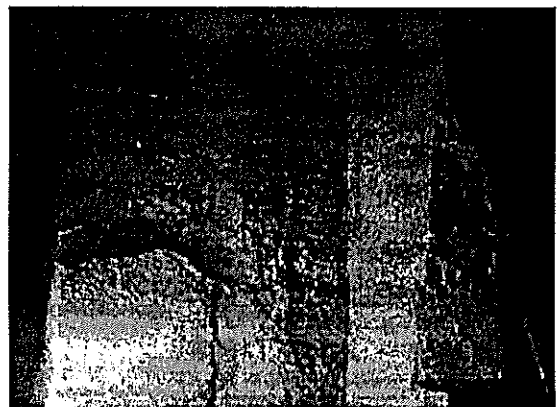
Work began in 1999 with the removal of superficial layers of washed in modern debris and a preliminary investigation of the more closely packed lower fill. This season, the floor of the tomb was gridded, and a square by square excavation begun. Careful sieving yielded several strays from Davis's work, including quantities of gold leaf and a small gold necklace ornament of gold with repoussé cartouches of Sethos II-similar to 16 identical elements recovered in 1908 and now in the Cairo Museum. The work will be completed in 2001.



A new survey of the tomb was undertaken, and a computerised 3-dimensional wire-frame plan and section of the tomb and surrounding area produced. Geophysical examination indicated that the tomb's adapted, i.e. unfinished plan was not the result of structural considerations-i.e. poor quality rock or severe faulting-but of some other, as yet undetermined factor.

4. Mapping and documentation of settlement located between tomb KV37 and the tomb of Siptah

A detailed survey of the standing remains in the area between KV 37 and the tomb of Siptah (KV 47) was undertaken by the ARTP's survey team, with the aim of producing a full and detailed record.



5. Geophysical survey



A longer-term aim of the ARTP's geophysical survey of the Valley is to produce a subsurface map of the site, to be used in conjunction with

selective clearance/excavation to identify the location of existing underground features, geological as well as archaeological. The terrain is notoriously difficult, and this first season of geophysical survey focused on testing and calibration of the equipment-ground-penetrating radar. Further study and analysis will be needed before the full results of the season's work are known.

Background
2000 Dig Diary

The ARTP team

Articles

The 1998 season

The 1999 season

How to help

Note to visitors: this website, home of The Amarna Royal Tombs Project, is still under construction, with new features and information being constantly added. Please visit us again frequently to check on the latest developments.

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EXHIBIT

2



The National Park Service

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Preserve America: "Federal Government to provide leadership in preserving America's heritage ..."

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ADAPTATION: The process of change to better conform with environmental conditions or other external stimuli.

ALLUVIUM: Sediment (mud, sand, and gravel) laid down by flowing water. The largest particles (sand and gravel) tend to accumulate within the channel itself. Particles of clay, silt, and fine sand are small enough to be suspended in flowing water. When the stream overflows its banks, these particles can be distributed across the valley floor. These overbank or flood deposits are the most common contexts in which buried archaeological sites are found. Stream valley floors are underlain by deposits of alluvium and often contain buried archaeological sites.

ANTHROPOLOGY: The scientific and humanistic study of man's present and past biological, linguistic, social, and cultural variations. Its major subfields are archaeology, physical anthropology, cultural anthropology, and anthropological linguistics.

ARCHAEOLOGICAL CONTEXT: The physical setting, location, and cultural association of artifacts and features within an archaeological site.

ARCHAEOLOGICAL SITE: A location where human activities once took place and left some form of material evidence behind.

ARCHAEOLOGY (also spelled **ARCHEOLOGY**): The scientific study of the physical evidence of past human societies recovered through collection, artifact analysis, and excavation. Archaeologists not only attempt to discover and describe past cultures but also to formulate explanations for the development of cultures. Conclusions drawn from study and analyses provide answers and predictions about human behavior that add, complement, and sometimes correct the written accounts of history and prehistory.

ARCHAEOLOGIST: A person trained in the knowledge and methods of archaeology. A professional archaeologist usually holds a degree in anthropology with a specialization in archaeology and is trained to collect archaeological information in a proper scientific way.

ARTIFACT: Any object manufactured, used or modified by humans. Common examples include tools, utensils, art, food remains, and other products of human activity.

ASSEMBLAGE: A group of artifacts related to each other based upon some recovery from a common archaeological context. Assemblage examples are artifacts from a site or feature.

about 1.6 million years ago and ended with the melting of the large continental glaciers creating the modern climatic pattern about 11,500 years ago. Some North American archaeologists specialize in the investigation of sites containing the remains of extinct animals such as the woolly mammoth that were hunted by PaleoIndian groups between about 12,000 and 8,000 years ago at the end of the Pleistocene.

PREHISTORIC HUNTER-GATHERERS: Humans who lived prior to written history and depended upon the hunting of wild animals and the gathering of natural plant foods for their livelihood.

PREHISTORIC SITES: Locations where people who were alive before modern written records existed once lived, hunted, camped, or were buried. Painted or carved rock outcrops are considered sites as well.

PROVENIENCE: The three-dimensional location of an artifact or feature within an archaeological site, measured by two horizontal dimensions, and a vertical elevation.

PUBLIC ARCHAEOLOGY: A branch of modern archaeology that focuses on increasing public awareness and education about archaeology and that promotes legislative attempts to provide funding and protection for archaeological sites.

RADIOCARBON DATING: Using the known half-life of Carbon-14 and measuring the amount of undecayed carbon-14 in animal or plant remains, an age bracket of the remains and an associated artifact or feature can be determined.

SEDENTARY: A term applied to human groups leading a settled, non-migratory lifestyle.

SERIATION: Technique in which artifacts are dated relatively to each other without any strict assigning of age.

SHERDS: The individual pieces of broken pottery vessels.

SITE SURVEY: A non-intrusive method of observing a site without excavation. There are many types of surveys, including pedestrian walkovers, controlled collection, and a number of remote sensing procedures such as resistivity, magnetic, radar, side-scan sonar, and metal detection surveys. These surveys allow archaeologists to "see" a buried site or feature without disturbing the ground and guide any needed follow-up investigations such as test excavations, block excavations, and other kinds of data retrieval.

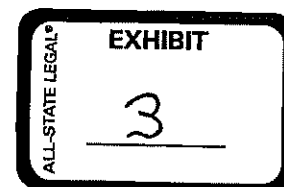
SOIL SCIENTIST: One who studies the distribution, fertility, and chemical and organic composition of the upper layer of the Earth.

STRATA: The layers of sediment or rock revealed after excavation or through natural weathering.

STRATIGRAPHY: The study of layers sequentially deposited over time. This is very helpful for land archaeology. Under water, it can also be useful, but it is more complicated and often confusing because of current and sea movement.

The simulation of side scan sonar images

Vanessa S Blake



Abstract of a paper published in Archaeological Prospection, 2 pp29-56

This paper describes a system which applies the established ray tracing techniques from computer graphics to the simulation of side scan sonar images. Side scan sonar is a widely used device in underwater searches for sunken vessels and inundated land sites in archaeology. It is also used in other fields such as the defence and oil industries. Sonar techniques effectively use sound to 'see' through water which would rapidly attenuate light, but whereas we are used to interpreting what we see with our eyes, the meaning of sonar images is often less immediately apparent.

An archaeologist searching for an underwater site would benefit from being able to model the expected target and examine the images produced under varying conditions. A series of computer experiments predicting the various manifestations of a given target could save a great deal of time, and therefore money, at sea.

Initially, the simulated sonar images are produced by applying the computer graphics model directly to sound. The model uses the basic principles of geometric optics, and even in this simple form produces simulated images which compare favourably with their real counterparts. As the model becomes more sophisticated it incorporates some of the many factors that degrade real sonar images, such as the beam pattern of the sonar transducer, the sea bed itself, towfish instabilities and multiple reflections.

It is believed that this is the first time that ray tracing has been used in this way and the system has the unique ability to present visual images of how a target on the seabed might look if the water were removed together with simulated sonar images of that object. This would be of great value as a teaching tool and simulated images are necessary in the testing of algorithms for, for example, distortion correction.

Previous attempts at modelling the sonar process are mathematically intensive. The method developed here has the benefit of simplicity. Each ray hits a point on the seabed and that point is considered in isolation. Although millions of calculations are performed, each individual calculation is very simple.

The application of ray tracing to the simulation of side scan sonar images has proved that techniques from computer graphics can be applied to underwater acoustics and examples are given to illustrate some of the difficulties of interpretation of side scan sonar imagery.

[For example images, click here](#)

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EXHIBIT

4

The Tomb of Ramesses II's Sons, Part I

by Mark Andrews

The living legends of Egyptology, the modern day superstars of the profession, at least in the eyes of the general public make up a very exclusive club. Its members could probably be counted on one hand, and would include people such as Mark Lehner at Giza, Dr. Hawass who seems to work both at Giza and in the Valley of the Golden Mummies, but who has recently been named to head Egypt's Supreme Council of Antiquities (SCA). They work the most prestigious sites in Egypt and therefore are known to many people interested in Ancient Egypt. Another member of this club would be Kent Weeks, and likewise, he heads an important project. What are you doing for the rest of your life? Kent Weeks may be working on KV 5, the Tomb of Ramesses II's sons.



While the ownership of Tomb KV 5 in the Valley of the Kings at Luxor (ancient Thebes) was unknown, the tomb itself has been known for many years. Its front section was tunneled into and partially investigated by James Buron in 1935. One of the all time great legends of Egyptology, Howard Carter, cleared around and perhaps inside the entrance to the tomb for Theodore Davis in 1902, though he had little success at finding anything. Later the debris from other archaeology work in the Valley hid the tomb, and it was forgotten about for some time.

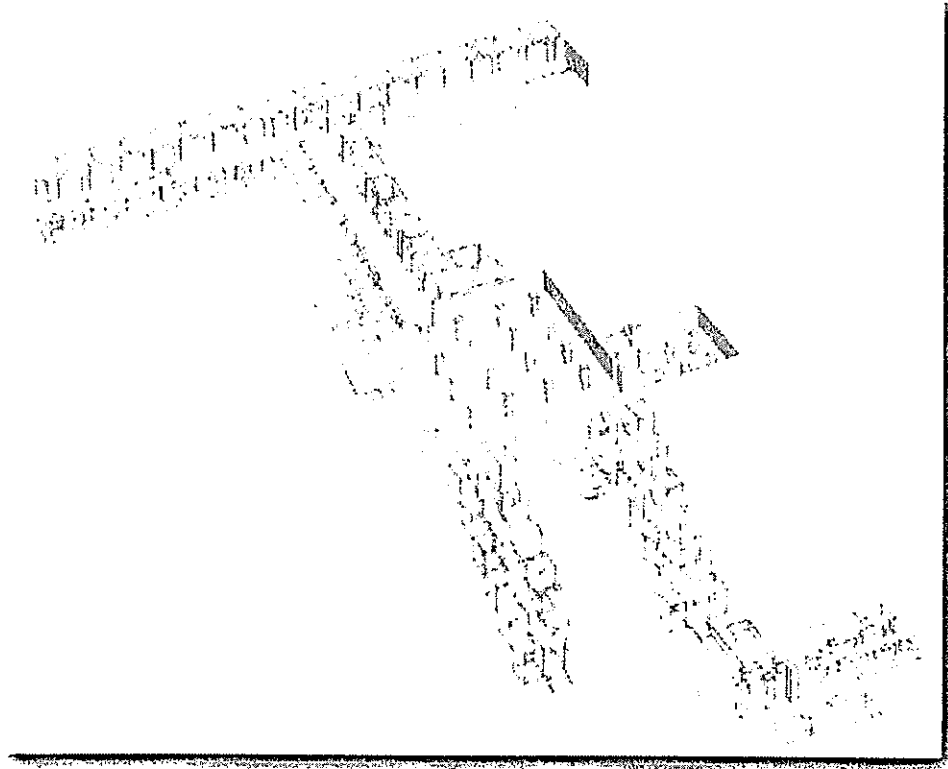
Around 1989, Kent Weeks rediscovered the tomb using sonar and ground penetrating radar. The following season, he began excavation of the tomb in earnest, though he appears at that time not to have known the significance of his find. Nine years later he had cleared ten of the 150 (100 of which are known to be decorated) or more chambers within the tomb. No other tombs in the valley have over 30 chambers, and most only have six to eight.

Kent Weeks claims he has no intention excavating the entire tomb, leaving some work for future excavators. In reality, he will have little choice in the matter because at the current pace, the tomb will probably not be fully excavated for at least another 90 years. Ok, that isn't exactly fair. The flood debris in the front portion of this tomb is far worse than further in, so perhaps they may be excavated faster. So far, at least several tons of potsherds have been carted out of the tomb. And yet, only fairly recently did this dig

reveal its builder. On May 18th, 1995, Kent Weeks made the following announcement:

Last February, excavating through the flood-borne debris that fill the tomb, my staff and I found a passageway leading past twenty chambers to a statue of the god Osiris. Two transverse corridors, each with another twenty chambers, extend beyond that. At the end of the corridors there are stairs and sloping corridors apparently leading to even more rooms on a lower level. The tomb could be the largest ever found in Egypt...

So far, that statement has not completely worked out. Currently, it appears that the corridor with a stairway that was thought to lead to lower levels ended abruptly. However, other corridors do lead to lower levels, and the excavators apparently have still not found the end of these passages.

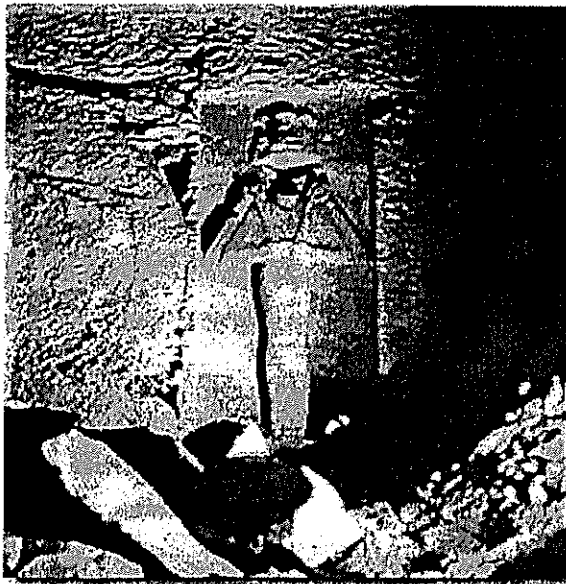


We now know that this tomb was built for at least some of Ramesses II's children (sons). In fact, in the first eight chambers excavated, there were two dozen representations depicting sons. Unfortunately, most of the names that were inscribed with those images were destroyed by flooding or salt leakage. The tomb is popularly called the Tomb for the Sons of Ramesses II, for only sons have been discovered here, but Kent Weeks has apparently not ruled out the possibility of finding Ramesses II's daughters. Kenneth Kitchen says of the tomb:

This is the most exciting find in the Valley of the Kings since the discovery of Tutankhamun's tomb in 1922. Careful archaeological work should now reveal

much previously unknown information about Ramesses's enormous family"

Ramesses the Great indeed had an enormous family. We are told that Egyptologists know the names of 52 of his sons, and there were perhaps almost as many daughters. Though work continues on this tomb, and there remains much to be discovered.



So far we know names of only a few of his sons buried in the tomb. We have been told of four sons, but the excavation team appears to believe they have found the names of possibly five of the sons buried in the tomb. We believe that Meryatum (Mery-Atum) is here because of an ostrakon found by Howard Carter. Kent Weeks work has added the names of Amenkherkhepshef (Amon-her-khepeshef), Ramesses II's oldest son, and a son named Ramesses (Ramessu), and Sethy who's name was found on a canopic jar. Two sons we are fairly sure are not associated with this tomb are Khaemwese and Merenptah, because they have their own private tombs elsewhere.

While this tomb is utterly unique, it does share many aspects of other late 18th Dynasty burials. The tomb was probably not begun by Ramesses II, but was taken over by him for his family. Though not proven, there is a lot of circumstantial evidence for this theory that probably rooms, numbered by Ken Weeks one and two, as well as part of chamber 3, were dug 50 to 100 years prior to the rule of Ramesses II. Kent Weeks has labeled the history of the tomb with five phases, of which the period prior to the reign of Ramesses comprises Phase I. He believes that there were no burials made in the tomb at that time, and that chamber 3, the 16 pillared hall, might have been much smaller with only 8 pillars prior to the time of Ramesses II..

The first reason given for this theory is the location of the tomb in the middle of tombs KV 62 (Tutankhamun), 46 (Yuya/Tjuyu), and 55 (Akhenaten?), mostly dating from Egypt's 18th Dynasty. Second, architectural components, consisting of the first two chambers and the dimensions of the doors, all suggesting earlier style. The doorways of 18th Dynasty tombs had never exceeded 200 centimeters, and royal tomb entrances averaged of 150 centimeters. On the other hand, 19th Dynasty tomb doors always exceeded 200 centimeters and royal tombs averaged 211 centimeters. The entrance door to KV 5 was only 110 centimeters, even after apparently being widened in the time of Ramesses II by 15 centimeters, as were all the other doors. The two front chambers and 18 pillared hall and the very entrance, deep within the floor of the valley against the base of a moderately slopped hill, are also reminiscent of older tombs, as opposed to the straight lateral series of corridors of 19th Dynasty tombs. The 18 pillared hall has doorways that seemingly lead everywhere. Actually nothing else like it exists on the West Bank, or most likely anywhere else in Egypt.

The other phases that Weeks assigns to the history of the tomb, are

Phase 2: The Time of Ramesses II's life: The tomb was being prepared for his children, including its enlargement.

Phase 3: From the death of Ramesses II until Phase 4: While the tomb was accessible, few visited it with the exception of several sets of tomb robbers.

Now, Usihe and Patwere have stripped stones from above the tomb of Osiris King (Ramesses II), the great god... The chief artisan Peneb, my father, caused men to take off stones therefrom. (He has done) exactly the same. And Kenena the son of Ruta did it in this wame manner above the tomb of the royal children of Osiris King (Ramesses II), the great god. Let me see what you w9ill do to them, or I will make complaint to pharaoh my lord and likewise to the vizier my superior.

Turin Papyrus

The above describes the robbery of the tomb in antiquity by Kenena. He was caught, and probably dealt with severely. He may also have been the last person to enter the tomb prior to modern times, but the robbers did substantial damage.

Phase 4: From the Late Christian Period to the early 19th century (Phase 5): The tomb appears to have been closed off and unknown.

Phase 5: From near the beginning of the 19th century until Phase 6: The tomb entrance was almost always choked off by debris, but a few early travelers breached the doorway and reported their entry.

Phase 6: From the late 19th century until the beginning of Phase 7. The tomb was partially investigated by Howard Carter.

Phase 7: From the end of World War I through the present time. Tomb has suffered heavy damage largely due to a leaking sewer line and the constant vibration of tourist busses that pass near the tomb.

The Tomb is huge. So far that we know, it consists of several entrance halls, including one with sixteen pillars, followed by a series of corridors in the shape of a T. Each of these corridors leads to groupings of sixteen single chambers. Along the first long corridor, there are also suits of rooms.

Unexpectedly, and uniquely in the



Valley of the Kings, two further corridors sprout out from the sixteen pillared hall towards the front of the tomb. While one side has not been very well investigated, so far these wings appear to mirror each other. The wing that has been most excavated reveals a sharply descending corridor with more single chambers to either side, finally leading to a three pillared hall. From this pillared hall, other single chambers open up, as well as at least one further corridor with even more side chambers.

KV 5 was decorated in raised reliefs cut into a lime plaster that had been applied to prepared rock surfaces. Some plaster remains, while in other locations it has disappeared, but marks remain where the artists cut through the plaster into the rock. It appears that every wall, at least so far, was decorated.

Notation: Part II of this series discuss the specific tomb layout and provide descriptions of its elements.

References:

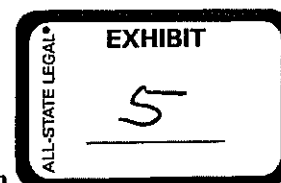
Title	Author	Date	Publisher	Reference Number
<u>KV 5: A Preliminary Report on the Excavations of the Tomb of the Sons of Ramesses II in the Valley of the Kings</u>	<u>Weeks, Kent R.</u>	2000	American University in Cairo Press, The	ISBN 977 424 574 1
<u>Atlas of the Valley of the Kings</u>	<u>Weeks, Kent R.</u>	2000	American University of Cairo Press, The	ISBN 9774245490
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Archives

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Geophysical Exploration in Israel: The 1983 Field Season

by Lambert Dolphin

In a separate essay, Geophysics and the Temple Mount, I described our failed attempt to conduct geophysical remote sensing experiments in the Rabbinical Tunnel in search of subsurface features under the Temple Mount. Although the casual observer may conclude that all our 1983 efforts were in vain, such is not the case.

For the benefit of our more technically minded readers this section briefly summarizes the work of our field team at other sites in Israel during our April-May 1983 field season in Israel.

A. The Herodium

Project Letter Report to Dr. Ehud Netzer

Seven miles southeast of Bethlehem, visible from the main highway, is a conspicuous lone mountain which resembles a volcano. However, the flattened top and 120 feet high talus slopes are man-made. This modified mountain, known as the Herodium, is another one many monuments to himself built by the notorious Idumean King Herod the Great, (73 B.C.- 4 B.C.). Herod usurped the legal dynasty of the Hasmonean dynasty and ruled ruthlessly, destroying all who opposed him, including members of his own family. He is best known in Christian history for the massacre of innocent children in Bethlehem in his futile attempts to destroy the newborn Messiah (Matthew 2). Herod also enlarged the Second Temple.

Josephus (*Antiq.* xvii.6.1-8, *Wars* i.33.1-9) describes Herod's funeral procession from Jericho where he died, to the Herodium where he was buried:

After this they betook themselves to prepare for the king's funeral; and Archelaus omitted nothing of magnificence therein, but brought out all the royal ornaments to augment the pomp of the deceased. There was a bier all of gold, embroidered with precious stones, and a purple bed of various contexture with the dead body upon it, covered with purple; and a diadem was put upon his head, and a crown of gold above it, and a scepter in his right hand; and near to the bier were Herod's sons, and a multitude of his kindred; next to whom came his guards, and the regiment of the Thracians, the Germans also and Gauls, all accoutered as if they were going to war; but the rest of the army went

foremost, armed and following their captains and officers in a regular manner; after whom, five hundred of his domestic servants and freedmen followed, with sweet spices in their hands; and the body was carried two hundred furlongs to Herodium, where he had given order to be buried. And this shall suffice for the conclusion of the life of Herod. (Josephus, Wars excerpt)

Professor Ehud Netzer of the Hebrew University at Jerusalem has excavated at the Herodium for many years, clearing debris, opening tunnels and cisterns and restoring the site so that it is now partially restored, attractive and accessible to tourists.

The roof and upper stories of the Herodium mountain fortress have long since disappeared, but four towers remain. The eastern-most tower, originally 120 feet (now only 50 feet tall), is 60 feet in diameter above the tamped-earth floor. From the top and all other outward aspects this tower appeared solid throughout.

On our very first day of work at the Herodium our geophysical radar and seismic teams decided who could be the first to explore this "solid" tower using two different sensing technologies. It was only a short time later that both teams, within minutes of each other, announced to our incredulous archaeologist host that this the solid Eastern tower contains a large room near the base!

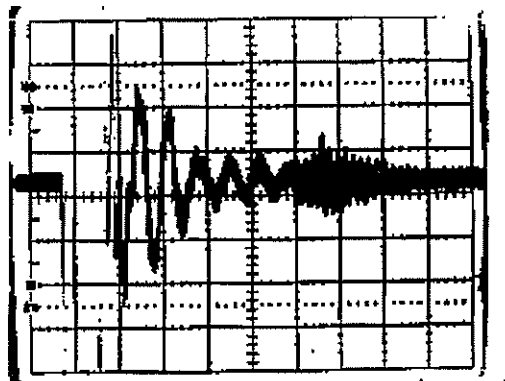


Figure 1: Radar reflections from a hidden room in the Eastern Tower of the Herodium. The radar transmitter pulse is to the left and the extended echo from the chamber begins just past mid-screen. The distance to the echo from the outside of the wall is 17 feet and the room appears to be more than 10 feet in diameter. To date this chamber has not been opened.



Figure 2: Radar antennas placed against the base of the Eastern Tower of the Herodium. Our measurements by both radar and seismics confirm the existence of a large room inside the tower.

Prof. Netzer felt it was unlikely that a king would be buried in a building that was still in use as a residence. His personal feelings were that the tomb location was more likely to be near the base of the Herodium.

In addition to the mountain-top fortress, the Herodium complex, which covers more than 50 acres, originally included a large monumental palace and a 150 by 200 foot swimming pool surrounded by a luxuriant royal garden, both fed from distant aqueducts. Distinct remains of a thousand-foot long hippodrome, or horse race track may be seen even today.

Perhaps, Netzer told us, the tomb of Herod the Great was beneath a later Byzantine Church built over what was originally an important Herodian ceremonial or "monumental" building.

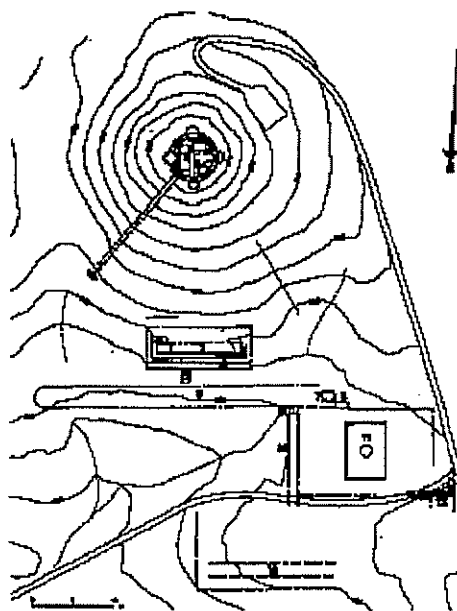


Figure 3: Diagram of the Herodium complex, looking South. The Byzantine Church and Herodian Monumental Building are indicated as site 7 at the West end of the hippodrome.

After taking resistivity data - to measure the dirt floor thickness over bedrock - of the summit palace, and following some further inconclusive radar and seismic explorations around the summit buildings and tunnels we relocated our radar and seismics equipment on the tiled floor of the old church building Netzer suspected was the best candidate site for Herod's tomb.

Soon our radar work had revealed that shallow cavities lie a few feet under the floor of the ancient Byzantine Church. These, we understand, are likely to be the tombs of early bishops of the church. They would date at least three centuries later than Herod's time. Yet both radar, and also our parallel seismics searches, revealed several additional chambers were located deeper beneath the floor. The most significant of these rooms was measured to be 21 feet beneath the floor. Although we were excited by these results and reported everything to Netzer with enthusiasm, no "ground-truth" excavations to verify our finds have yet been made at either the Eastern Tower or the Monumental Palace, quite possibly because of lack of funds.

Our modest 1983 geophysical pilot project - a few days of effort only - at the Herodium also received stormy publicity in the United States as did our aborted attempt to explore the Temple Mount described elsewhere. The Sacramento Bee ran the following story:

IMAGINE INDIANA JONES WITH HAN SOLO GADGETRY

The tomb lay buried-secreted under a fall of rock from another burial site.

For centuries, grave robbers passed it by. Archaeologists, armed with educated

guesses, fumbled blindly around it.

It took British archaeologist Howard Carter six years of searching through hot dust and rocks before in 1922, he uncovered the tomb of Tutankhamun, boy king of Egypt. It had stayed untouched, crammed with the trappings of a king, for more than 3,000 years.

Recently a group of California engineers retraced Carter's tracks. Standing as he did in a dark tomb above Tutankhamun's, they set up acoustic sound equipment. It took them thirty minutes to get a reading on the burial site beneath their feet. "That's what we can do best-save time," says Lambert Dolphin, a physicist with SRI International, a private research firm in Menlo Park. Dolphin was one member of the team that "rediscovered" Tut's tomb. . .

As well as working in Egypt, the SRI team has helped sort through buried cities in Israel. Last year, it discovered a chamber inside what was thought to be a solid tower in the mountain fortress of Herodium, the summer residence of Herod the Great. Israeli archaeologists excavating the site think the chamber-15 feet in diameter-could be the tomb of Herod, who ruled from 73 B.C. to 4 B.C. Archaeologists have been searching for the tomb, thought to be full of gold and artwork for years.

"We've given some hot leads in a needle-in-a-haystack search" Dolphin said. But now they still have to do the excavation and that takes time. I want to make the point that archeology is a time-honored profession and while this equipment can help, it will never replace the plain old hard work.

Because our team had possibly discovered Herod's tomb the wire services picked up the story and it was printed nation wide. Some of the headlines read as follows:

Physicist Says He Has Found Herod's Tomb
The New Haven Connecticut Register, October 30, 1983

Secret Chamber Possibly Lost Crypt of King Herod
Herald and News, Klamath Falls Oregon, October 31, 1983.

Geophysicist Looks For Herod's Tomb With Aid Of Radar, Sonar
Times Union, Albany, New York, November 24, 1983

The New York Tribune ran the following story.

Tomb of Herod located: physicist Menlo Park, CA

A California physicist believes he has located the tomb of Herod the Great deep within the base of an ancient tower in the Judean hills south of Jerusalem.

If the discovery proves true it would be a major archaeological find and the first attributed to sophisticated new equipment which can "see" through earth and

stone.

Lambert Dolphin, a geophysicist with SRI International said that during this summer his seven-member team working at Herodium found a secret chamber in the base of a large, otherwise solid tower. He said he believes this is the long-sought tomb of Herod.

"The very large tower on top of the mountain previously thought to be solid, has a chamber in it, and there should be no chamber in it at all. There is no other reason for the chamber," the scientist said.

Dolphin said he believes Herod "was probably trying to conceal his tomb, and the tower was a good place to conceal a chamber. There is no entrance."

He said the chamber, estimated to be 8 or 10 feet in diameter, is concealed 15 feet within the tower, which is 60 feet in diameter.

The mysterious room in the Herodian tower was located by the use of high technology devices built at SRI, an organization that carries out extensive research for the Department of Defense and other clients.

The instruments used by the SRI team included rock penetrating radar, sonar devices and electrical equipment similar to that used by oil and mineral prospectors.

"I am a physicist and my specialty is the application of geophysics to the service of archaeology," Dolphin said. "Archaeology is ordinarily very slow. You dig a little. You use a whisk broom. You use toothpicks. You sort out everything and when you're done you've destroyed the area.

"We can give the archaeologist a map and tell him where to concentrate his digging."

. . . Dolphin believes the newly discovered chamber in the tower a more probable location because there is no other ready explanation for it.

"The burial customs of the ancient Israelite kings was certainly not as lavish and splendid as an Egyptian Pharaoh," said Dolphin. Nevertheless Herod's tomb would probably contain "shields, swords, a crown perhaps, and mementos of his personal life.

Dolphin said it is possible that Herod's tomb was discovered and looted in the year 1120 when Crusaders visited Herodium and later described several caves there. However, he said, even if that is the case, "Something that has not been explored since the time of the Crusades is well worth exploring.

Our SRI team had never claimed to have found Herod's tomb only several cavities and voids in suspicious areas that could be the possible location of Herod's tomb. However some of the newspapers did sensationalize the story making our expedition seemingly the discoverers of Herod's burial place.

Our team and sponsors were embarrassed that our modest efforts in Israel had provoked so much sensationalism and speculation in the news. Yet my colleagues and I have confidence that we have proven that a room exists in the Eastern Tower of the Herodium and that as yet unexcavated chambers lie under the Monumental Palace at the base of the mountain. Only time will tell whether Herod's burial place has been disclosed by our geophysical methods. I feel confident that a modest investment to enable Netzer or others to excavate these two significant geophysical anomalies will yield valuable finds, even if the actual tomb still eludes detection. In that case further geophysical exploration at the Herodium in search of Herod's tomb seems to us to be a worthy project. Many acres around the base of the Herodium await archaeological exploration.

B. The Tower of David in the Citadel

Visitors to Jerusalem today will find, just inside the Jaffa Gate, the magnificent Museum of The History Of Jerusalem, and outdoor theater, within the ancient Citadel. Herod the Great built three towers there over earlier foundations to defend his adjacent palace. Many believe the Citadel is the site of the Praetorium at which Jesus was condemned to death. It was the scene of a later massacre of Roman soldiers during the First Jewish Revolt. Mamluk and Ottoman rulers later built extensively on the site.

In 1983 this fortress was under intensive excavation and restoration by archaeologist Giora Solar. Learning of our work on at the Herodium, Solar inquired if our radar could tell him if the great tower of Herod (possibly the ancient Phasel tower) at the Citadel contained any hidden chambers. The lower courses of masonry of the tower are Herodian. Solar presumed the tower to be solid throughout, but why not have a look?

Our radar measurements quickly showed that here indeed was a solid tower. No hidden chambers crammed with gold, bones, or Roman armor lay within.



Figure 4: Radar Probing of the Tower of Herod in the Citadel. The high-frequency radar antennas in the background were simply leaned up against the wall at various locations

around the tower for the measurements. No hidden rooms or voids were discovered within the tower.

As long as we had the run of the place, our field crew used both the radar and the seismic sounder to probe not only the tower but some of the thick walls in the citadel. No secret rooms emerged, however our seismic studies uncovered one hidden room full of rubble near the top of Herod's tower in a later addition to the tower.



Figure 5: Seismic sounding within the walls of the Citadel in Jerusalem. The black, tapered transmitting seismic transducer is being pushed against the wall on the left by means of a long rod and spring mechanism. The receiver is not shown but was located on the opposite side of the thick stone wall which was being investigated. A coupling gel is used to assure that the sound waves enter and leave the rock properly.

Two-days' effort at the Citadel was not a great expense for our three man team. We were reminded that even negative findings can be helpful in dispelling myths and reassuring the archaeologist that, in all probability, nothing of interest lies within a tower or behind a wall. Not only was little time required for our measurements we left no holes or rubble to scar the monuments or to leave any traces of our efforts. Giora Solar seemed well-pleased to have our findings handed over to him at the end of the working days on site.

B. The Macpelah at Hebron

Ze'ev Yevin of the Israel Department of Antiquities and Stanley Goldfoot were our helpful field guides during our brief 1983 radar and seismic exploration of the tomb of Abraham, Isaac, Jacob, Sarah Rebecca and Leah at Hebron. The building over the traditional site of the cave purchased by the Patriarch (Genesis 23, 25:7-10, 49:28-35) is known to the Jews as the Macpelah, and to the Arabs as the Haram el Khalil. The building is Herodian embellished by minarets and roof decorations dating from the time the Moslems overcame the Crusader control of the Holy Land, or later. The subterranean rooms under the building were last opened to the outside area at the time of the Crusaders when the caves or rooms were used for intrusive burials. In 1967 Moshe Dayan lowered a small girl with camera through a small hole in the floor thus gaining some information on the basement rooms, as

well as ending a 700 year old ban on non-Moslems entering the Haram. Since 1967 the site has been both a mosque and a synagogue, and it is of course a hallowed spot for Christians since Abraham is not only called "the friend of God" but also "the father of all who believe" in the Bible.

Very little is actually known about the caves or even the rooms under the floor of the Macpelah, so my colleagues and I were excited to probe through all four outside walls of the building on a one-day visit. (We asked for, but could not obtain, permission to make cart radar and seismic soundings vertically downwards through the floor inside the building - that viewing geometry would no doubt give very useful results).



Figure 6: Geophysical crew conducting radar and seismic measurements into the caves beneath the Macpelah. All four outside walls of the building were sounded in the one working day available.

Our one day of radar and seismic data collection brought us far more echoes and reflections than we could expect to interpret in many months of labor! All we had time for was to map and tabulate hundreds of echoes and write our friends in Israel a short letter report. Our conclusions: the subterranean rooms and caves under the floor of the Macpelah are many and complex. We can only hope the entire underground complex will be excavated and explored by the archaeologist in the near future. We would love to be on hand to do more geophysical work, especially if it became possible for us to view downwards through the floor of the building.

C. The Memorial Bonfires of the Hebrew Kings

The Bible recounts that good kings were given a memorial funeral bonfire. The whole country would come to the event according to archaeologist Gabriel Barkay. Our team used resistivity and radar to map one of the most prominent of the extant bonfire mounds believed to be that of King Hezekiah who ruled Jerusalem for thirty years in the tenth

century B.C. Although Barkay has recovered gifts and memorials offered to God on behalf of the king, this mound did not prove to have any significant internal features that we could discern with our instruments. Children in the adjoining suburb of Jerusalem ride their sleds down this hill probably aware that the hill is not natural, but an ancient monument to one of their most prominent forefathers. In spite of our negative geophysical findings we felt a strange and close connection with a great, historic king we could read about in the Bible (2 Kings 18-20, 2 Chronicles 29-31, Isaiah 36-39).

D. Shiloh and the Site of the Tabernacle

Bar-Ilan University archaeologist Israel Finkelstein began to excavate the tell of Shiloh in 1981, concentrating on the areas of the tell believed to be the center of religious and political life during the time of the Judges. Tell Shiloh, about 31 kilometers North of Jerusalem, is not a natural hill, but an artificial mound of cities built upon cities. The tell extends over about 12 acres. The Ark of the Covenant and Tabernacle of Moses were located at Shiloh during the period of the Judges. A modern Jewish settlement is adjacent to the tell, in the upper right hand corner of the photo.



Figure 7: Aerial view of Shiloh. The ancient tell is in the lower left, the modern Jewish settlement is at upper right.

Once again our team felt it was a great privilege to work for a few days alongside one of Israel's fine young archaeologists, and at such an historically important site as Shiloh. Driving to and from the site we read from the books of Joshua, Judges and First Samuel to remind ourselves of the centuries of history that had taken place here.

As much as we had all hoped that radar and resistivity would help identify key areas or rooms associated with the area at the tell where the Tabernacle had stood, the radar records

were a hopeless jumble of reflections we could not sort out. Most of the tell was too rough and uneven to use the cart radar. However, as excavation proceeds it is entirely possible that limited radar studies might be of value from time to time. Tells can be enormously complicated structures. We were all impressed with the painstaking efforts required of the archaeologist who seeks to unravel their mysteries.

F. First Century Tombs on the Old Road to Bethlehem

Few visitors to Jerusalem realize that one of the Roman Siege camps from A.D. 70 lies near the front gate of St. Andrew's Scottish Presbyterian Church and Hospice just South of the Valley of Hinnom across from Mt. Zion. Alongside the church runs the ancient Roman Road to Hebron and Bethlehem. Rock-cut tombs explored by Gabriel Barkay of Tel Aviv University have revealed not only many bones and artifacts, but an important small artifact of silver inscribed with the name of God dating from First Temple Times.

In several working days our radar and resistivity teams explored the Roman road and the roadsides near the church for a distance of several hundred feet. Very quickly we were able to pinpoint at least 5 additional tombs (since excavated). What may have been even more helpful to the archaeologist was our ability to map out large strips of "barren ground" eliminating any unnecessary digging efforts. Who knows how many thousands of soldiers, Israelites and even Jesus and his family had walked over the road we were now probing with modern sensing methods in search of ancient tombs. The long dead tomb owners surely never dreamed their resting places would be discovered in such a manner.

End Notes

1. Abraham Rabinovich, *Jerusalem Post*, August 1, 1983
2. Deborah Blum, Science Writer, *Sacramento Bee*, Sunday, October 14, 1984
3. Richard M. Harnett, United Press International, *New York Tribune*, November 8, 1983
4. Nancy Miller, *Patriarchal Burial Site Explored for First Time in 700 Years*, BAR, May/June 1985, pp 26-43.

Because of a soaring volume of spam email, I've had to remove my email link from this page. Spammers, as you probably know, use web crawling software to automatically "harvest" email addresses from Internet sites like this one. To email me, use the email address below **but DELETE ALL OF THE SPACES**. Thanks for understanding.

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revised June 29, 1995. January 20, 2005.



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Tutankhamun: The final mystery

By Susan Cottman

In 1998, Egyptologists Nicholas Reeves and Geoffrey Martin became the first excavators in more than 70 years to be granted permission to search for new tombs in the Valley of the Kings. It was fellow countryman Howard Carter who had the previous concession.

Reeves, who's been called the world's foremost authority on Tutankhamun, is the Project Director and Joint Field Director (with Martin) of the Amarna Royal Tombs Project.

Reeves, in April lectures in Seattle and Portland, told his audience that the project has two aims: 1) to investigate and document the archaeology of the site and the burials of the Amarna period; and 2) to study the topography of the valley in antiquity and modern times to help with future flood prevention.

The valley of surprises

Things were very different in the early days of Egyptology, when explorers, treasure hunters, and archaeologists were "drawn like bees to a honey pot in the Valley of the Kings," he said.

From Giovanni Belzoni, the Italian adventurer who found Seti I's tomb, to wealthy American Theodore Davis, the valley was a magnet for treasure seekers and early archaeologists.

Davis forever earned a place in history by declaring the valley exhausted. Undaunted, Howard Carter took over the concession to the valley and made the find of the century.

"Carter only found one (tomb), but oh, what a one that was," Reeves said.

"Tutankhamun's tomb changed everything," he said.
"Egyptology became glamorous."

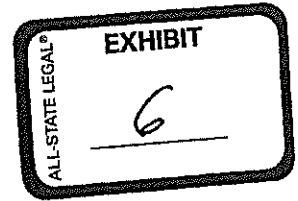
But the find of the century became a "kiss of death." It seemed that all the kings were now accounted for, and scholars lost interest.

Unlike his predecessors, Reeves isn't drawn to the valley by the possibility of buried chambers full of golden statues and coffins.

The search for the Amarna dead What drives Reeves and his colleagues is the search for the missing Amarna royalty, and the possibility of a second cache in a patch of ground not far from Tutankhamun's tomb.

What Reeves is already certain of is that the Amarna period was cruel and dictatorial.

"Akhenaten was closer to Stalin, Hitler, and Mao than the proto-Christ portrayed by Arthur Weigall," he said.



Reeves believes that: 1) Nefertiti was co-regent and then succeeded Akhenaten, using the name Smenkhkare; 2) Tutankhamun was his son by a lesser wife, Kiya, who died in childbirth; 3) and Nefertiti wrote the much-debated letter to the Hittites requesting a husband.

Tombs full of riddles

Against this historical backdrop of religious heresy, death, and politics, another question intrigues the project team: How did Tutankhamun's successor, Ay, fill his tomb so quickly, since the young king died so unexpectedly that there wasn't ample time to prepare a proper tomb?

The answer is in the numbers: eighty percent of the core burial goods — those associated with the body — were recycled.

"The treasures of Tutankhamun are mostly the treasures of his ancestors," Reeves said.

Evidence of this includes: 1) some figures have feminine features; 2) names were altered, such as a pectoral with Akhenaten's name; 3) bows were originally made for Akhenaten's co-regent; 4) coffinettes were re-inscribed; 5) some faces aren't the style normally used for Tutankhamun; 6) the second of the four shrines had replaced cartouches; and 7) the sarcophagus bears traces of earlier text.

Most intriguing of all is that a new face had been inserted in the magnificent golden burial mask. Pointing to a photo, Reeves showed where **the original face had been cut out and replaced with Tutankhamun's**. The solder marks are clearly visible. And on the outermost coffin, the wig resembles those seen on Akhenaten, but the face is Tutankhamun's. Reeves thinks it was originally made for Akhenaten.

The fate of Akhenaten's burial and its connection to nearby KV55, the "most written-about topic in Egyptology," is another key to this mystery.

Reeves believes the body in KV55, a source of much debate since its 1907 discovery by Davis' team, is Akhenaten's. The heretic pharaoh used the title goodly ruler, which appeared in the tomb.

His mother, Tiye, was removed from KV55 during the reign of Ramses IX, although Davis found remains of her golden shrine there. Reeves suggests that this tomb was a "direct reburial" of Tiye and Akhenaten. It was the result of Ay's decision to supply Tutankhamun's burial with objects originally intended for his probable father and grandmother.

Reeves theorized that Tiye's body and those of the rest of the family — Nefertiti, et al. — must have been reburied in the valley, since the royal tomb at Amarna had been abandoned when the court returned to Thebes.

"Because Tutankhamun's tomb turned up so early in the season (in 1922), it means Carter didn't thoroughly survey the area

which we are now excavating," he said.

Graffito, which the team found in 1998; results from a 1977 sonar test of Tutankhamun's tomb; and eyewitness accounts may point to two possible shaft tombs at the site.

Wen-nefer, possibly a 21st Dynasty necropolis official, left his name on a rock wall at the back of the site and one on the rock wall between the site and KV56. The team also found inscriptions with his name at KV56 and KV58.

Reeves theorizes that if Wen-nefer left his name at each tomb he inspected, then he may have visited tombs at or near the site.

The sonar test results also show two anomalies in the middle of the site, and two men who worked for Carter recall that he found two shaft tombs in the area between KV56 and the tomb of Ramses VI (KV9), where the dig site is.

"At this stage, I don't know what's going on," Reeves concluded with a smile.

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RUTAN
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September 15, 2006

VIA FACSIMILE AND
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Re: *Michael Williamson, et al. v. Recovery Limited Partnership, et al.*
Case No. CV-06-5689

Dear Messrs Frevola, Shipow and Koch:

I write in response to your clients' ("Plaintiffs") blatantly wrongful seizure yesterday of several million dollars worth of property (the "Property") belonging to our client Monaco Financial, LLC ("Monaco"). *Monaco and its clients¹ are the sole, unfettered and rightful owners of the Property and are not parties to this or any related lawsuit.* Your pleadings and papers are based on **misrepresentations** of fact made to the court and are **frivolous**. The above-referenced seizure was in bad faith and must be remedied immediately.

In 1999, California Gold Marketing Group, LLC ("CGMG") purchased almost all of the Central America Treasure (the "Treasure") owned by defendants Columbus America Discovery Group and Recovery Limited Partnership (collectively hereinafter, "CADG"), two of the defendants in this matter. The Asset Purchase Agreement between the parties states, in relevant part:

...the Seller [CADG] shall sell, transfer, convey, assign and deliver ("Transfer") to the Purchaser [CGMG], and the Purchaser shall purchase, acquire and accept from the Seller, **all of Seller's right, title and interest** in and to all of the Assets set forth on Schedule

¹ Some of the Property seized was owned by certain of Monaco's clients who are wholly unrelated to this action.

EXHIBIT B, PAGE 8

RUTAN

Michael Frevola
Mark S. Shipow
September 15, 2006
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1.1, wherever located, **free and clear of all Liens** (as defined in Section 3.5(c).).

(Asset Purchase Agreement by and between CADG and CGMG, ¶ 1.1, emphasis added.) Liens are defined as:

...any mortgage, pledge, security interest, conditional sale or other title retention agreement, encumbrance, lien, easement, claim, right, covenant, restriction, right of way, warrant, option or charge of any kind.

(*Id.* at ¶ 3.5(c).) It is our understanding that CGMG acquired the Treasure in its entirety by obtaining unfettered title thereto, but CADG retained a small continuing interest in the profits realized from the sale of the Property. **Such profit – not ownership – interest was unrelated to any issue of title.** Later, however, in June 2001, *such continuing interest was extinguished in its entirety* by amendment to the Agreement and payment of a further lump sum to CADG.

In 2001 Monaco began purchasing large quantities of the Treasure from CGMG. Monaco has paid millions of dollars for portions of the Treasure included in the Property improperly seized yesterday. The relevant Purchase Agreement similarly states:

The Ingots purchased by Monaco hereunder shall be delivered to Monaco **free and clear of all liens**, security interests or encumbrances. Except as explicitly permitted hereunder, CGMG will not assign, sell, mortgage, lease, transfer, pledge, grant a security interest in, encumber or otherwise dispose of or abandon any part or all of the Ingots to be purchased by Monaco hereunder without the prior written consent of Monaco.

(Ingot Purchase Agreement by and between Monaco and CGMG, ¶ 9(d), emphasis added.)

Therefore, as illustrated in these facts, **Monaco has never had any relationship with CADG.** CADG has never had a contract with Monaco or otherwise hired or agreed with Monaco to purchase goods or furnish services. Contrary to Mr. Frevola's unfounded declaration in support of Plaintiffs' Ex Parte Application, *Monaco has never acted as a sales agent for any of the defendants in this action.*

Notwithstanding these undeniable facts, yesterday armed United States Marshals showed up at one of the largest coin and collectibles shows in the world and forcibly removed Monaco's Property from Monaco's public display. Such seizure was effected with absolutely no prior notice or warning to Monaco, who is not even a party to this action. This

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seizure – at such a high profile function – has doubtlessly caused great damage to Monaco's reputation and business. Indeed, irreparable harm has already occurred in that Monaco has been precluded from selling the Property, of which it is the sole rightful owner.

Plaintiffs' moving papers submitted to effectuate the seizure make *patent misrepresentations* to the court regarding the ownership of the Property. Indeed, you led the court to believe that you are seeking the attachment of *Defendants'* property, when in fact the Property is owned and possessed by Monaco or its clients. Again, Monaco has never had any sort of a business relationship with CADG. The entire factual basis for your Ex Parte Application is founded upon the bare representations of defendants that they somehow own an interest in the Property. **We hereby advise you emphatically that they do not.** Furthermore, this procedure, Ex Parte and without prior notice to Monaco, was entirely unnecessary and an obvious attempt to lead the court to believe that the Property would "set sail" and become, thereafter, absolutely unrecoverable should this extraordinarily harmful action not be taken. All of these assertions and suggestions were ridiculous.

Monaco will seek all available remedies against you and your client related to the wrongful seizure of the Property. We demand that you take all necessary action to ensure return of the Property to Monaco immediately.

You are obviously unable to make a showing that defendants have any interest in the property seized and it is also clear that you have failed to make a reasonable inquiry into defendants' alleged ownership interest as represented to you. Filing this action under Federal Rule of Civil Procedure, Rule B, constitutes bad faith. Therefore, please be on notice that Monaco will petition the court to vacate or dissolve this wrongful attachment and award damages – including those for the substantial business loss caused by the wrongful seizure of the Property from an auction site – as well as attorneys fees and costs. (*See Applewhaite v. S.S. Sunprincess* (9th Cir. 1956) 136 F.Supp 769, 771.)

Moreover, it is clear that the moving papers and supporting declarations filed in this matter warrant sanctions under Federal Rule of Civil Procedure, Rule 11. As I am sure you are well aware, Rule 11 requires that any attorney signing a pleading or paper filed with the court have read those papers and that "to the best of the signer's knowledge, information, and belief *formed after reasonable inquiry* it is *well grounded in fact*..." (F.R.C.P. Rule 11 (emphasis added).) Your papers, based only on the unsupported and false representations by defendants that they have an ownership interest in the Property and that Monaco is a sales agent for CADG, illustrate on their face that you and your client have failed to conduct a reasonable inquiry into the factual basis for this action. A simple telephone call would have cleared up any misconceptions, but you filed these papers based on the unsupported and false assertions that Monaco was some sort of flight risk. "Rule 11 imposes an *objective* standard of conduct ...

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Subjective good faith is not relevant.” (*Business Goods, Inc. v. Chromatic Communications Enterprises, Inc.* (9th Cir. 1989) 892 F.2d 802, 808 (citations omitted, emphasis in original).) Therefore, once Monaco is successful in vacating or dissolving the attachment, we will seek Rule 11 sanctions against your firm and your clients.

Your grounds for the issuance of the attachment effected against the Property yesterday have no basis in actual fact. As such, if you fail to take all appropriate and necessary action to ensure return of the Property to Monaco immediately, we will institute all available actions – including but not limited to those described above – to vacate or dissolve the attachment and seek the appropriate sanctions and remedies against your firm and your clients.

Thank you for your anticipated cooperation, and do not hesitate to contact me at the number above should you have any questions or comments regarding this matter.

Sincerely,

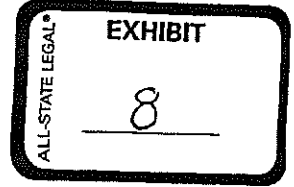
RUTAN & TUCKER, LLP

Richard K. Howell by *HH*

Richard K. Howell

RKH:hnh

cc: Heather N. Herd



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